



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

March 23, 1939

Dr. W.A. Davis, State Registrar
State Board of Health
Austin, Texas

Dear Sir:

Opinion No. O-931
Re: As to whether physician
or coroner should sign death
certificate.

Your request for an opinion as to whether the death certificate in cases of accidental death should be signed by the physician last in attendance or the Justice of the Peace, has been received by this department.

Under Article 4477, Rule 40a, Subsection 20 the death certificate should be made and signed by the physician, if any, last in attendance on the deceased. This requirement applies to cases of death from disease, accident or violence unless the circumstances require an inquest by the Justice of the Peace as provided in Article 908 Code Criminal Procedure.

We think that Article 4477, Rule 40a intends that if the facts are such as to require an inquest to be held by the Justice of the Peace as provided in Article 908 of our Code of Criminal Procedure, the Justice of the Peace shall make the death certificate, regardless of whether there was a physician in attendance. However, we do not think that Article 4477, Rule 40a or Rule 41a imposes any duty upon the Justice of the Peace to hold an inquest.

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The duty, if any, upon the Justice of the Peace to hold an inquest arises when such circumstances as are related in Article 968 of our Code of Criminal Procedure exist.

In our opinion if under Article 968, the Justice of the Peace is required to hold an inquest, Rule 41a of Article 4477 imposes a duty upon that officer to make the death certificate. In any other situation it is the duty of the physician last in attendance to make the death certificate. You are doubtless familiar with Article 4477, Rule 41a in that if there has been no physician in attendance and there is no statutory duty on the Justice of the Peace to hold an inquest, the local health officer is authorized to make the certificate and if there be no local health officer, the local registrar shall make the death certificate.

It is the opinion of this department that in the event of a fatal accident, the doctor last in attendance shall make the death certificate unless the facts are such as to require the Justice of the Peace under Article 968a of our Code of Criminal Procedure to hold an inquest; in that event the certificate should be executed by the Justice of the Peace.

Yours very truly

ATTORNEY GENERAL OF TEXAS

MH:ob

H.H.P.

By

Lorris Hedges
Lorris Hedges
Assistant

APPROVED:

W.L. Moore
ATTORNEY GENERAL OF TEXAS

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